IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

JUDGMENT

Ravinder Kumar & Ors. **VS**. State of Raj. & Ors.

D.B. CIVIL SPECIAL APPEAL (WRIT) NO.258/2006
against the judgment dt.6.3.2006 passed in S.B.
Civil Writ Petition No.1162/2006.

Date of judgment : 11th May, 2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P. VYAS

Mr. H.S. Sindhu for the appellant.

BY THE COURT:- (Per Hon'ble Mr. Rajesh Balia, J.)

We have heard learned counsel for the appellants.

The brief facts of the case are that additional Naka in the Kila No.2 and 3 of Murabba No.71 situated in village Chak No.10 GB was sanctioned on 2nd July, 1998 by the Executive Engineer, Irrigation. The present petitoner-appellants filed an appeal agaisnt that order dated 2nd July, 1998 before the Supreintending Engineer, Irrigation on 6.2.2002. At that belated stage, the Supreintending Engineer did not entertain the appeal for setting aside the order of

Executive Engineer sanctioning additional Naka in Murabba No.71. The learned Single Judge considering this aspect of the matter had not thought fit to entertain the writ petition in relation to the system of distribution of water which was in force since 1998 at the behest of the petitoners who according to the order passed by the Supreintending Engieer acquired the land in Chak No.10 GB only on 31st March, 2000 through separate registered sale deed.

The learned counsel for the appellant urged that the petitioners are continuously in possession of the land since when Naka was sanctioned, however, the learned counsel conceded that the appellants acquired the land only in 2000. Apparently, until the transaction was registered in respect of the interest in immovable property, the appellants did not acquire any interest in the land in question.

Moreover if the appellants' contention about their possession under an agreement to sell is accepted as correct, then too their objection to order passed in 1998 in the year 2002 has grossly belated to take notice.

The Supreintending Engineer also observed that the appellants are not entitled to challenge the order as the predecer in title of appellants and original holders and otherwise given their consent for sanction of additional Naka.

In view of the above, we are of the opinion that the learned Single Judge was justified in not entertaining the writ petition. The writ petition was suffering from serious unexplained laches.

The appeal is, therefore, dismissed.

[R.P. VYAS], J. [RAJESH BALIA], J.

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